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**SUPREME COURT OF THE UNITED STATES**

**OCTOBER TERM, 1944**

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**No. 409**  
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**HERBERT MEZO,**

*Petitioner,*

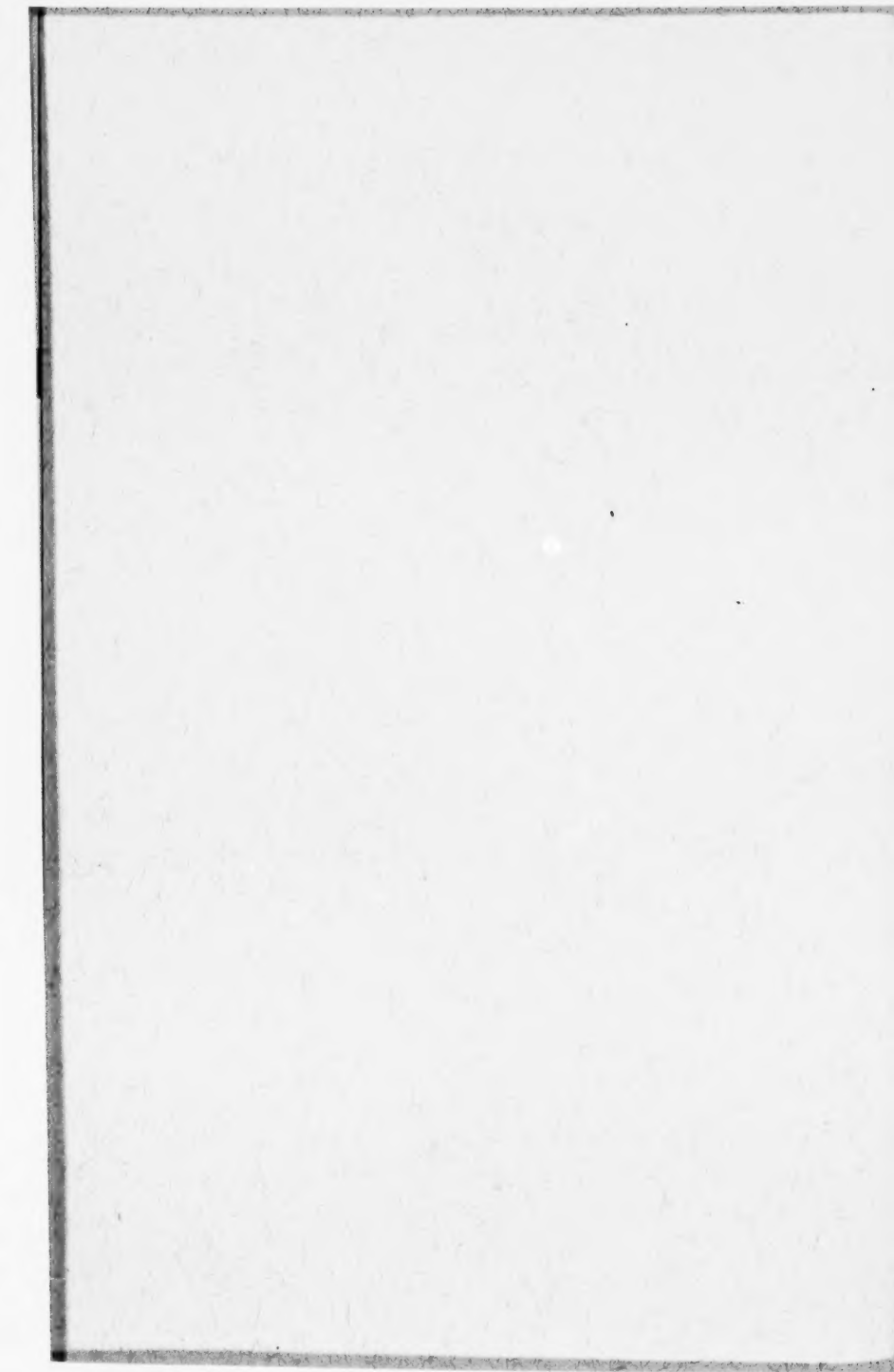
*vs.*

**PEOPLE OF THE STATE OF ILLINOIS.**  
\_\_\_\_\_

**PETITION FOR WRIT OF CERTIORARI TO THE  
SUPREME COURT OF THE STATE OF ILLINOIS  
AND BRIEF IN SUPPORT THEREOF.**  
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**HERBERT MEZO,**

*Pro Se.*



# SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1944

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**No. 409**

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HERBERT MEZO,

*vs.*

*Petitioner,*

PEOPLE OF THE STATE OF ILLINOIS,

*Respondent.*

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## **PETITION FOR WRIT OF CERTIORARI.**

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### **Statement.**

This is a criminal case, in which the People of the State of Illinois, were the Plaintiff's, and Herbert Mezo, alias "Herb" Mezo, et al., were the Defendants, Herbert Mezo, charged with Murder, was sentenced to the Penitentiary for his natural life, as was the Defendant Morgan, but the Defendant Ridley, after being granted a separate trial, was released on bond, then released without trial.

It will be observed from the Judgment (R. 22-30), and the Courts Charge to the Jury (R. 13-22), that the standard practice, and procedure, also good ethics at law, were ignored, as was the Constitution, and was one of those the Illinois, Attorney General calls Kangaroo Courts, because they ignore the Constitution; And because the defendants

were poor persons at the time of trial and defense Counsel was appointed by the Court, and the one taking the lead was a candidate for State's Attorney, and thought it more profitable for himself, to show the voting public that he was a good prosecutor, the consequences were that, no Motion to quash the Indictment; no opening statement to the jury; no Motion to exclude the forced and forged confession as evidence, he only objected to its use; would not let the Petitioner take the witness stand, or call any of 16 witnesses that were subpoena in his behalf; made no Motion for a direct verdict, or arrest of Judgment; took no exceptions to any ruling or action, of the Court; and withdrew the Motion for a new trial without permission from the Petitioner; So under this lax and Kangaroo, procedure in the trial court, the Petitioner is deprived of the report of the proceedings, as the trial Judge refused to grant a Motion to extend the time in which to get the report transcribed, and a bill of exceptions certified by him.

Therefore the rules of this Court, in this Statement can not be fully complied with; And the Confession, and all other exhibits have been deleted from the court Clerk's Record, Why,???

However, this does not alter the Petitioner's Constitutional Rights.

(A) The statutory provision believed to sustain the jurisdiction in this Court, is the fact that the Petitioner, was deprived of Due Process of Law, in the trial court, and the Judgment of the trial court was affirmed by the Illinois State Supreme Court, which is un-Constitutional.

(B) Where the Petitioner, was compelled to be a witness against himself, by a forced and forged confession, obtained in jail behind locked and bared doors, with no one present except the Sheriff, and his Deputies, this is

in violation of the 5th, and 6th, Amendments to the United States Constitution, and Sections 9 and 10 of Article II of the Illinois State Constitution; and where the Jury was improperly instructed, as to whether the confession was voluntarily made, and where the said confession was obtained as set forth above, it is in violation of Chap. 38. sec. 379. (Compelling Confession) § 161, Illinois Statutes; And where the jury was improperly instructed, by omitting the Manslaughter instructions in a homicide case, it was in violation of Chap. 38. sec. 373. (Burden of Proof.) § 155, Illinois Statutes, see, *People v. Papas*, 44 N. E. 2d. 8 P. 896, 899, and the cases cited thereunder, in the Illinois State Supreme Court; The above violations in instructing the jury, are in violation of the Due Process of Law, clause in the 5th, and 14th Amendments, also the 13th Amendment, which provides that the party shall have been duly convicted; They are also in violation of sec. 2 and 19 of Article II, Illinois State Constitution.

(C) The date of the judgment in the trial court is January 18, 1936, and after over eight years of opposition, and oppression, it was to have been reviewed, May 15, 1944, on writ of error, in the Illinois State Supreme Court, Defendant in error, opposed by Motion, to strike the Record, Abstract, Brief, and Affirm the judgment of the trial court; The Motion was granted on May 9, 1944, and judgment was Affirmed; The date of application for writ of Certiorari is August 20, 1944.

The nature of the case, and the rulings of the State Courts are of such as to bring the case under jurisdictional provisions of this Court, and similar cases believed to sustain jurisdiction are cited.

*Ashcraft v. State of Tennessee*, 391 U. S. 921, 935, 64 N. R. S. 13;

- Berdeau v. McDowell*, 256 U. S. 465, 475, 41 S. Ct. 574,  
65 L. Ed. 1048, 13 A. L. R. 1159;
- Brown v. Walker*, 161 U. S. 591, 596, 16 S. Ct. 644, 646,  
40 L. Ed. 819;
- Bram v. United States*, 168 U. S. 532, 544, 18 S. Ct. 183,  
187, 42 L. Ed. 568;
- Chambers v. Florida*, 309 U. S. 227, 237, 60 S. Ct. 472,  
477, 84 L. Ed. 716;
- Counselman v. Hitchcock*, 142 U. S. 547, 573, 12 S. Ct.  
280, 35 L. Ed. 1110;
- Canty v. Alabama*, 309 U. S. 629, 60 S. Ct. 612, 84 L.  
Ed. 988;
- Lisenba v. California*, 314 U. S. 219, 236, 238, 62 S. Ct.  
280, 289, 290, 86 L. Ed. 166;
- Lomax v. Texas*, 313 U. S. 544, 61 S. Ct. 956, 85 L. Ed.  
1511;
- McNabb v. United States*, 318 U. S. 332, 341, 63 S. Ct.  
608, 613, 87 L. Ed. 819;
- Polko v. Connecticut*, 302 U. S. 319, 325, 326, 58 S. Ct.  
149, 151, 152, 82 L. Ed. 288;
- Vernon v. Alabama*, 313 U. S. 547, 61 S. Ct. 1092, 85  
L. Ed. 1513;
- Ward v. Texas*, 316 U. S. 547, 555, 62 S. Ct. 1139, 1143,  
86 L. Ed. 1663;
- White v. Texas*, 310 U. S. 530, 531, 532, 60 S. Ct. 1032,  
1033, 84 L. Ed. 1342;
- Wilson v. United States*, 162 U. S. 613, 622, 16 S. Ct.  
895, 899, 40 L. Ed. 1090;
- Wood v. United States*, 75 U. S. App. D. C. 274, 128  
F. 2d. 265, 271, 141 A. L. R. 1318;
- Ziang Sung Wan v. United States*, 266 U. S. 1, 15, 45  
S. Ct. 1, 3, 4, 69 L. Ed. 131;

The Petitioner, now states the grounds upon which it is contended that the questions involved are substantially the same as in the cases cited above.

The fact that the conviction violated the 5th, 6th, 13th, and 14th Amendments to the United States Constitution, and the Supreme Court of Illinois, granted Defendant in error's Motion to strike the Record, Abstract, Brief, and Affirm judgment of the trial Court, made the State Supreme Court a accomplice in the violations, and the Judge of the trial court, and the Judges of the State Supreme Court, violated their oath of office, to support the Constitution of the United States, and the Constitution of the State of Illinois, (Chap. 37. sec. 11. Oath of Office.) § 6. Illinois Statues.

The State Supreme Court's granting of the aforesaid Motion, based on grounds that there were no bill of exceptions with the records, which are required in criminal cases by, sec. 259.70A. Chap. 38. Illinois Statues, was illegal as this requirement went into effect November 25, 1941 five years and 10 months after trial; At the time of trial there were, sec. 204. Chap. 110. Illinois Statues, which went into effect January 1, 1934, and was in effect until superseded by sec. 259.70A. Chap. 110. which was applied "Retroactive" in this case; This case was covered by, (quote) Chap. 110. sec. 204. (Exceptions) No formal exceptions need be taken to any ruling or action of the court in any matter or proceeding, in order to make such ruling or action a ground for review. S. H. A. 110. § 204; J. A. 104.080. [End quote.]

By applying sec. 259.70A. Chap. 110 of Illinois Statues to this case it was "Retroactive" consequently it was used as *Ex Post Facto Law*, which is forbidden by Article I. Section 9. of the United States Constitution, and Article II. Sec. 14 of the Illinois State Constitution; And it was

in strict violation of Section 1. of the 14th Amendment to the United States Constitution, as it does Abridge the Privileges of review of the process in this case, which can not possibly be considered a Due Process of Law, after considering the violations of State Statutes, in instructing the jury.

As this case is being brought from a State Court, it will now be stated that in the court of first instance it reached the stage of sentencing the petitioner to the Penitentiary for his natural life.

And in the Appellate Court; in Illinois, a criminal case goes direct to the State Supreme Court, on writ of error, which reached the stage of a review on May 15, 1944, but it was terminated by a Motion granted to Defendant in error, on May 9, 1944 and the granting of said Motion, calls for sound judicial discretion in this Court.

The Federal questions sought to be reviewed in the State Court, were that the Petitioner, had been forced to make a confession, (to be a witness against himself) contrary to the 5th Amendment to the United States Constitution, also Article II. Sec. 10. Illinois State Constitution, (compelled to give evidence against himself), also that the conviction was not a Due Process of Law, which is contrary to the 5th, and 14th, Amendments to the United States Constitution, also contrary to Article II. Sec. 2. of the Illinois State Constitution.

Where the Sheriff and his Deputies set themselves up as a *quasi judicial* tribunal, holding the petitioner incommunicado, in the jail behind locked and bared doors, without the presents of any neutral person, and in so doing rendered a trial, (the necessary evidence) before the trial court, and the jury of peers, which were a mere formality, in open court, and a consequent conviction; This is not a

Due Process of Law, and is in violation of the 5th, 6th, 13th, and 14th Amendments to the United States Constitution, and Article II. Secs. 2 and 10. of the Illinois State Constitution.

All questions were raised in the State Court, by assignment of error, as there were no exceptions taken during the trial, and no extension of time was granted on the Motion filed by Attorney R. E. Smith, in which to present a bill of exceptions, (R. 12) this time should have been granted where the defendant was a poor person at the time of trial, and could not obtain the necessary funds for an appeal until it was apparent that the soldiers bonus would be paid, the attitude of the trial Judge on this Motion, shows prejudice, had the proceedings in his court been a Due Process of Law, he would not have cared how many times the case was appealed, but as it was it was subject to a reversal, and he knew it, he did not instruct the jury, on the voluntary question of the confession, (R. 20) he only leads them to believe that if one was made it was voluntarily.

According to Sec. 204. Chap. 110. Illinois Statutes, there were no need of exceptions being taken at the time of this trial in January 1936 to be entitled to a review, but if there was, that would be one more reason why the petitioner did not get, Due Process of Law.

A law, or rule requiring a bill of exceptions, as the State Court did in this case, was contrary to the 14th Amendment to the United States Constitution, for where such requirement is enforced as in this case, it does abridge the privileges, and immunities of this United States Citizen, due to the fact, that he has been deprived of his liberty, without Due Process of Law, and it would further deprive him, or deny him of the equal protection of the laws, and

such requirement could not be construed as being in Pursuance of the requirements of the United States Constitution. (Supreme Law of the Land.)

The Petitioner is unable financially, to employ the aid of Counsel.

HERBERT MEZO,  
*Petitioner, Pro Se.*

